

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

DEYI AWADALLAH, VC 2014-PR-012 Appl. under Sect(s). 18-401 of the Zoning Ordinance to permit construction of a two story dwelling 3.53 ft. from one side lot line to the eave, and 3.5 ft. from other side lot line to the eave. Located at 115 Tinner Hill Rd., Falls Church, 22046, on approx. 4,209 sq. ft. of land zoned R-4 and HC. Providence District. Tax Map 50-2 ((7)) 8. (Admin. moved from 12/10/14.) (Reconsideration granted on 2/4/15.) Mr. Beard moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 6, 2015; and

WHEREAS, the Board has made the following findings of fact:

1. The applicant is the owner of the land.
2. The present zoning is R-4, HC.
3. The area of the lot is 4,209 square feet.
4. The Zoning Administrator has made the determination that this is a buildable lot.
5. The letter from Ms. Blank, the Historic Preservation Planner, said that this house will not affect the ability of this area to be declared an historic district.
6. There has been significant work done on changes to the plans, which has allowed the proposed house to be very much in keeping with the neighborhood.
7. Staff recommended approval, and the Board agrees with their rationale.
8. This application meets all the required standards for a variance.
9. The applicant has read, understands and concurs with the proposed development conditions.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
 - A. Exceptional narrowness at the time of the effective date of the Ordinance;
 - B. Exceptional shallowness at the time of the effective date of the Ordinance;
 - C. Exceptional size at the time of the effective date of the Ordinance;
 - D. Exceptional shape at the time of the effective date of the Ordinance;
 - E. Exceptional topographic conditions;
 - F. An extraordinary situation or condition of the subject property, or
 - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.

3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
 - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
 - B. The granting of a variance will alleviate a clearly demonstrable hardship as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is **APPROVED** with the following limitations:

1. This variance is approved for the single family dwelling as shown on the variance plat, titled "Variance Plat, Pt Lot 8, Charles H Tinner Estate, 115 Tinner Hill Road" prepared by Inova Engineering Consultants, Inc., dated March 16, 2015 as submitted with this application and is not transferable to other land.
2. These conditions shall be recorded by the applicant among the land records of Fairfax County for this lot prior to the issuance of a building permit. A certified copy of the recorded conditions shall be provided to the Zoning Permit Review Branch, Department of Planning and Zoning.
3. All applicable building permits and final inspections shall be obtained for the single-family detached dwelling.

4. The architectural style shall be compatible with the front elevation depicted on the variance plat identified in Condition 1, and shall include a full front porch, gabled roof with eaves and shutters. The dwelling shall not include a garage.
5. The architectural style of the side elevations shall be compatible with the illustrations in Attachment 1 to these conditions.
6. The exterior siding material shall be wood or cementitious siding.
7. The applicant shall demonstrate attainment of EarthCraft House or 2012 National Green Building Standard using the Energy Star Qualified Homes path for energy performance through documentation provided to the Environment and Development Review Branch of the Department of Planning and Zoning prior to issuance of a residential use permit.
8. A masonry wall, two to three feet in height, and consistent in style with that shown on Attachment 1 to these conditions, shall be constructed along or near the front property line.
9. Foundation plantings, similar to those shown on Attachment 1, shall be provided, at a minimum, along the front and south side of the dwelling.

This approval, contingent upon the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations or adopted standards including requirements for building permits.

Pursuant to Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, thirty (30) months after the date of approval unless construction has commenced and has been diligently prosecuted. The Board of Zoning Appeals may grant additional time to commence construction if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the variance. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.

Mr. Byers seconded the motion, which carried by a vote of 6-0. Mr. Smith was absent from the meeting.

A Copy Teste:

Lorraine A. Giovinazzo

Lorraine A. Giovinazzo

Clerk to the Board of Zoning Appeals

ACKNOWLEDGEMENT

County of Fairfax
Commonwealth of Virginia

The foregoing instrument was acknowledged before me this 15th day of

May, 2015.

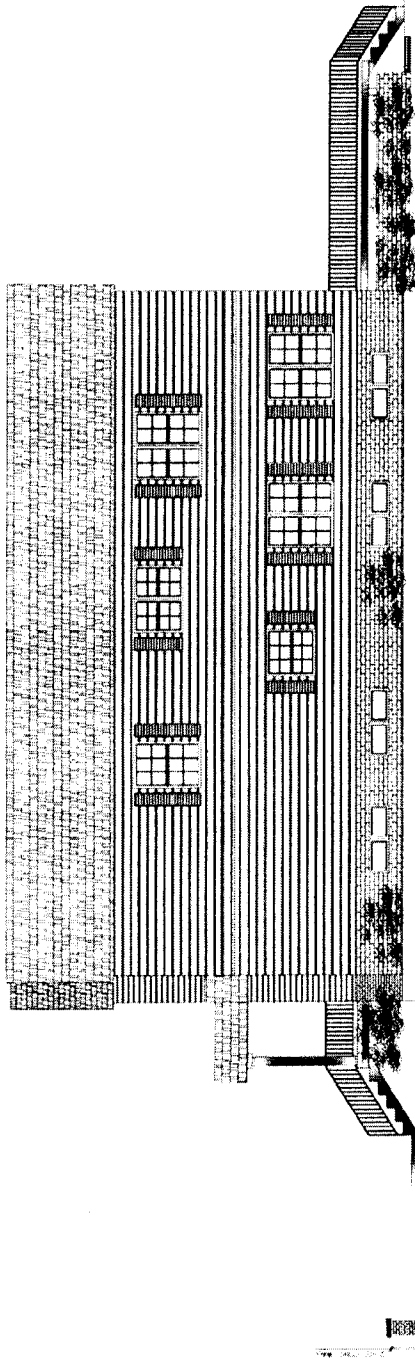
Rachael A. Locke

Notary Public

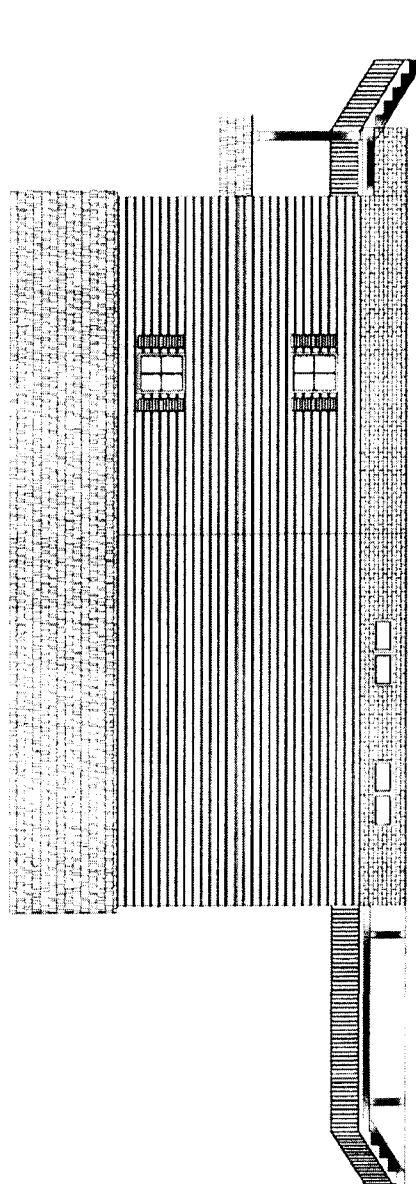
My commission expires: 6/30/15



Custom Home Lot # , Section 115 Tinner Hill Road, Falls Church, VA Fairfax County, Virginia		Date: Consulting Engineers 115 Tinner Hill Road Falls Church, VA 22041 Tel: (703) 555-0000 Email: info@rjd.com	Sheet No. A-103 Date: 11/11/11
R-J Design & Graphics 4287 Landon Drive North Riding, VA 20121 Tel: (703) 555-1853		Project No. 115TH-11-001 Date: 11/11/11 Scale: 1/8" = 1'-0"	



RIGHT SIDE ELEVATION



LEFT SIDE ELEVATION

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

DEYI AWADALLAH, VC 2014-PR-012 Appl. under Sect(s). 18-401 of the Zoning Ordinance to permit construction of a dwelling located 1.53 ft. from one side lot line, and 2.31 ft. from the other side lot line. Located at 115 Tinner Hill Rd., Falls Church, 22046, on approx. 4,209 sq. ft. of land zoned R-4 and HC. Providence District. Tax Map 50-2 ((7)) 8. (Admin. moved from 12/10/14.) Mr. Beard moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on January 28, 2015; and

WHEREAS, the Board has made the following findings of fact:

1. The applicant is the owner of the land.
2. The present zoning is R-4 and HC.
3. The area of the lot is 4,209 square feet.
4. Staff has recommended approval.
5. This is a unique piece of property and in a unique historic area.
6. There is going to be, at some point, a house on the property. Everyone who spoke at the hearing has acknowledged that.
7. The house has moved to be accommodating to those things that are within the proximity, notwithstanding, the significance of the years and so forth that these houses were built. Also, as this area moves towards more significant status, other houses that are there are going to have to go through things to perhaps do anything that they want to do. The Board does not see how this relates back, specifically at this point in time to this piece of property.
8. The Board thinks the following standards for a variance have been satisfied.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
 - A. Exceptional narrowness at the time of the effective date of the Ordinance;
 - B. Exceptional shallowness at the time of the effective date of the Ordinance;
 - C. Exceptional size at the time of the effective date of the Ordinance;
 - D. Exceptional shape at the time of the effective date of the Ordinance;
 - E. Exceptional topographic conditions;
 - F. An extraordinary situation or condition of the subject property, or
 - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.

3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
 - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
 - B. The granting of a variance will alleviate a clearly demonstrable hardship as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

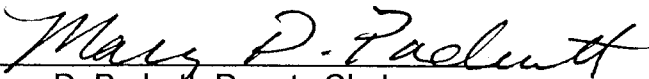
AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of reasonable use of the land and/or buildings involved.

Mr. Byers seconded the motion, which **FAILED*** by a vote of 3-2; **THEREFORE, THE APPLICATION WAS DENIED.** Mr. Hart and Mr. Hammack voted against the motion. Mr. Hart moved to waive the 12-month waiting period for refiling an application. Mr. Byers seconded the motion, which carried by a vote of 5-0. Ms. Theodore and Mr. Smith were absent from the meeting.

*Par. 3 of Sect. 18-402 of the Zoning Ordinance requires that a concurring vote of 4 members of the Board of Zoning Appeals is needed to grant a variance.

A Copy Teste:


Mary D. Padrutt, Deputy Clerk
Board of Zoning Appeals